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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,752	11/04/2005	Robert Albertus Brondijk	NL 030509	2530
24737	7590	07/22/2008	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			SASINOWSKI, ANDREW	
P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510			ART UNIT	PAPER NUMBER
			4163	
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			07/22/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/555,752	BRONDIJK, ROBERT ALBERTUS	
	<b>Examiner</b>	<b>Art Unit</b>	
	ANDREW J. SASINOWSKI	4163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 November 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-8 is/are allowed.  
 6) Claim(s) 9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 04 November 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 9 refers to a “Computer program product”, but there is no mention in the specification as to what embodiment the product could take.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 9 teaches a “Computer program product”, which is a data structure, i.e. non-statutory subject matter such as an idea, natural phenomenon or law of nature (See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760. Also see MPEP 2106.01.)

### ***Allowable Subject Matter***

3. Claims 1 through 8 are allowable. The following is a statement of reasons for the indication of allowable subject matter:

4. Claims 1 and 8 teach a device and method for recording information on a record carrier of a writable type by writing marks in a track on a recording layer via a beam of radiation, the recording layer comprising a pre-track pattern indicating the position of the track, the device comprising a head for providing the beam, and recording means for recording the information in the track according to a predefined recording format for

constituting a recording area containing user data preceded by a lead-in zone located at the start of the recording layer and followed by a lead-out zone located at the end of the user data. All of these elements have been taught in the prior art, an example being Suzuki [US 2003/0063545].

5. However, claim 1 also teaches lead-out means for finalizing the record carrier for playback on a reading device that cannot detect the pre-track pattern, the finalizing comprising determining if data written in the recording area extends up to a predefined physical position, and, if not, recording lead-out information, and, if the data extends at least up to the predefined position, not recording any lead-out information. Prior art does not teach this "lead-out means for finalizing the record carrier" as set forth in the claim combination.

6. Suzuki teaches a device that writes on information recording medium where the lead-out to be recorded is adjusted depending upon the maximum radial position of the recording [**claim 1**], or upon a predesignated choice by the user [**claim 3**]. The lead-out means taught in claim 1 is a non-obvious variation, since the lead-out area is completely dependent on whether the recording area surpasses a predefined physical position, and it is possible that the lead-out information writing may be omitted. Furthermore, Suzuki does not teach that the record carrier is finalized for playback on a device that cannot detect the pre-track pattern.

7. Claims 2 - 7 are found to be allowable as they are dependent upon claim 1.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sasaki [US 2003/022338] teaches a recording method and device that writes temporary lead-out areas if record writing is interrupted. Nakagawa et. al. [US 2003/0202443] teaches a computer-readable storage medium that writes a variable sized lead-out area where writing is interrupted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW J. SASINOWSKI whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson can be reached on (571)272-2319. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJS

/Mark A. Robinson/  
Supervisory Patent Examiner, Art Unit 4163